

Remarks

Claims 3-21 are now pending in this application. Applicants have amended claims 11, 12, 14, and 16 and added new claim 21 to clarify the present invention. Claims 3-10 have been withdrawn as being directed to a non-elected invention. Applicants respectfully request favorable reconsideration of this application.

The Examiner objected to the drawings as not showing features recited in the claims. The transport direction is identified in Fig. 1 as the "sort direction". The penetration presence is shown in Fig. 1 as the "check limit", which also shows defining a passageway and how an object can be picked without disturbing other objects. Movement of an object vertically is indicated by the illustration of the X, Y, and Z axes in Fig. 1. Fig. 1 illustrates moving an object horizontally. Actual mathematical calculations are not shown in Fig. 1 nor is it possible to illustrate such calculations. Applicants submit that Fig. 1 adequately illustrates Fig. 1 and respectfully requests withdrawal of the objection to the drawings.

Applicants have amended the specification to delete references to the claims and to corrected typographical errors. Accordingly, Applicants respectfully request withdrawal of the objection to the disclosure.

The Examiner rejected claims 11-20 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Calculating a passageway is clearly described in the specification and illustrated in Fig. 1. The transport or sort direction is defined as shown in Fig.

1 and described in the specification. Preventing disturbance to other objects is described in the specification and shown in Fig. 1 by the "check limit". If objects overlap along the pathway, or one object penetrates the path of another object, as illustrated by the check limit, then the objects would not be selected. The drawings illustrate and specification horizontal. Vertical movement is described in the specification in the context of objects on a pallet, for example. Circular motion is described in the specification with respect to objects on a circular conveyor. On other words, the product flow direction illustrated in Fig. 1 would be circular. In view of the above, the claims comply with 35 U.S.C. § 112, first paragraph, and Applicants respectfully request withdrawal of this rejection.

The Examiner rejected claims 11-20 under 35 U.S.C. § 102(b) as being anticipated by or under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,040,056 to Sager et al.

Sager does not disclose the present invention as recited in claim 11 since, among other things, Sager et al. does not disclose a method for selecting an object out of a plurality of objects moving in a flow direction in an operation area for transport to a predetermined location that includes defining a transport direction for each of the plurality of moving objects. Sager et al. defines a plurality of vision windows in an area on a conveyor belt on which objects are arranged. Sager et al. then determines whether an optimum number of objects is arranged within the vision windows. Sager et al. looks for articles that may be arranged in another vision window or partial objects, both of which are ignored.

Additionally, Sager et al. does not disclose defining a passageway along the transport

direction of each of a plurality of moving objects. The vision window is not a passage way or a transport direction. Furthermore, Sager et al. does not disclose determining whether any other of the plurality of moving objects penetrates each passageway for each of the plurality of moving objects. Sager et al. only discloses determining whether an object is within a vision window to determine whether an optimum number of objects is within the vision window and whether objects are in pieces or counted in another vision window.

Still further, Sager et al. does not disclose selecting an object from the plurality of moving objects for which the defined passageway is free from penetration of any other of the plurality of objects. As stated above, Sager et al. looks for objects partially within the vision windows to determine whether an optimum number of objects is within the vision window and whether objects are in pieces or counted in another vision window. It follows that since Sager et al. does not disclose defining a passageway or direction of transport, Sager et al. does not disclose moving a selected object in the defined passageway along a transport direction.

In view of the above, Sager et al. does not disclose all elements of the present invention as recited in claims 11-21. Since Sager et al. does not disclose all elements of the present invention as recited in claims 11-21, the present invention, as recited in claims 11-21, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. *See Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every

recitation, as set forth in the claims. *See Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir. 1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

As described above, Sager et al. does not suggest defining a direction of transport for each of the plurality of moving objects, defining a passageway along the transport direction of each of a plurality of moving objects, selecting an object from the plurality of moving objects for which the defined passageway is free from penetration of any other of the plurality of objects, and moving the selected object in the defined passageway along a transport direction. The Examiner has not pointed out any specific portions of the disclosure of Sager et al. that suggests such elements. Additionally, the Examiner has not provided any evidence that objects should be picked without disturbing other objects. Whether or not Sager et al. might suggest moving objects in different directions, simply moving an object in any directions does not suggest any of the other aspects of the invention recited in claim 11. Similarly, whether or not Sager et al. could be modified to circulate objects through a conveying path, such would not suggest the other aspects of the invention not suggested by Sager et al. either, as discussed above.

In view of the above, the reference relied upon in the office action does not disclose or suggest patentable features of the present invention. Therefore, the reference relied upon in the office action does not anticipate the present invention or make the present invention obvious. Accordingly, Applicants respectfully request withdrawal of the rejection based upon the cited reference.

In conclusion, Applicants respectfully request favorable reconsideration of this case and early issuance of the Notice of Allowance.

If an interview would advance the prosecution of this application, Applicants respectfully urge the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge fee insufficiency and credit overpayment associated with this communication to Deposit Account No. 22-0261.

Respectfully submitted,

Date:

7/6/07



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